

## REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated April 1, 2009.

Claims 1-13 are currently pending in the application.

As required for consideration by the Examiner, as requested in the Information Disclosure Statement of February 25, 2005, enclosed herewith are EP 1 097 871 and US 2005/0045263 (English language equivalent of cited DE 201 15 480).

Claims 1-4, 6-10 and 12-12 were rejected under 35 USC 103(a) as being unpatentable over Oldenburg et al. (US 6,428,639) in view of Johnson et al. (US 6,419,782). Claims 5 and 11 were rejected under 35 USC 103(a) as being unpatentable over Oldenburg and Johnson and further in view of Washelm (US 5,529,191).

The Examiner noted, in the support for the rejections, that Oldenburg, in essence, discloses the conventional one label format applicator to containers but the Examiner has read the independent claims 1 and 7 (and claims dependent thereon) as being readable on the situation wherein every container is assigned to every labelling station (with a single label) and that physical features used for identification of the containers include absence or presence of the container. The Johnson reference was cited as teaching identification of the container on the basis of the physical feature of height.

In response to the rejections, independent claims 1 and 7 have been amended to specify that the containers are identified with respect to type (and not whether they are present or not) and with such identification being based on colour, shape or size of the container or with identification previously obtained from processing upstream of the labelling path. The claims have been clarified to specify that there are a number of labelling stations and a number of types of containers (in both the method and machine) with the labelling stations having different pre-printed labels at the labelling stations (each station having a number of the same pre-printed labels). The various containers on the labelling path are identified and assigned to a type of pre-printed label so that when the respective containers pass labelling stations they are labelled at the labelling station having the associated pre-printed label. The cited Oldenburg reference only discloses labelling same type containers with a single type of label. There is no association of types of containers with types of labels and selective labelling at labelling stations which match associated labels with associated containers. Accordingly the Examiner's statement that "in the Oldenburg case, every container is assigned to every labelling stations" is not appropriate with

respect to the presently claimed invention since different types of containers are present and are not assigned to all of the labelling stations.

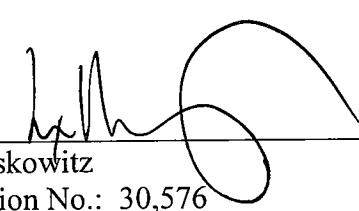
The Examiner has cited the Johnson reference as showing different container identification and that the identification is effected with a height determination which is a physical characteristic of the containers. The Examiner has cited col. 6, lines 14-50 as showing different labelling stations for applying labels at different heights. This is however a mis-interpretation of the Johnson reference which is directed to the secondary labelling of already labelled containers with bar coded labelling (note the title of the patent of BAR CODE OVERLABELLING SYSTEM). Operatively, the Johnson uses the bar code to identify the container and thereby determine its height for properly positioning the label overlap. Height is not used to determine the container identification but is a characteristic of the container once identified by the bar code scan. Furthermore, the present claims require pre-printed labels which are associated with specific containers and which are loaded into specific labelling stations. In contrast the labelling application stations print appropriate labels *in situ* once the containers are identified and applies them over the prior pre-printed labels. There is no pre-printing of labels nor any association of pre-printed label types with container types nor any prior loading of labels of an associated type in the labelling stations (*in situ* printing renders this unnecessary). Thus, neither Oldenburg et al. nor Johnson et al. whether separately alone or in combination provide the invention contained in present claims 1 and 7 (and claims 2-6 and 8-13 dependent thereon) and the Examiner is requested to review and withdraw the rejections based on the cited prior art.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON June 12, 2009.

MM:lac

Respectfully submitted,



Max Moskowitz  
Registration No.: 30,576  
OSTROLENK FABER LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700